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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,425	04/04/2006	Hans Lindh	P/1830-19	7893.

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OSTROLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NY 100368403

EXAMINER
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CHIN, PAUL T

ART UNIT	PAPER NUMBER
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3652

MAIL DATE	DELIVERY MODE
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07/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/574,425	LINDH, HANS
	Examiner	Art Unit
	PAUL T. CHIN	3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 04 April 2006.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-5 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 04 April 2006 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_.  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/4/06. 5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_.

**DETAILED ACTION**

***Priority***

1. It is noted that this application appears to claim subject matter disclosed in prior Application No. 102004057775.7, filed November 30, 2006, in Germany. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37

CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on April 4, 2006, was filed and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner. However, some of the provided references have been crossed out and not considered because they are not closely related to the instant application.

***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "40" (fig. 4). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the

specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The disclosure is objected to because of the following informalities: each appropriate subtitle should be inserted at each related paragraph. Appropriate correction is required.
5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

*The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words.* It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
7. Claims 3 and 5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, applicant describes on page 3, lines 28-31 of the specification:

The openings 33 and 31 lie in a plane that is inclined at an angle of about 30 degrees to the horizontal plane, and are mutually connected via a waist in the transit opening 32. The waist is defined by two mutually opposing shoulders 35 that form a threshold over which the ball 3 must pass in its passage into the section 22.

Applicant states that, "the openings 33 and 31 lie in a plane that is inclined at an angle of about 30 degrees to the horizontal plane". It is not clearly understood the "definition of a plane of an opening 33" and "the definition of a plane of an opening 31". It appears that figure 4 shows an inlet opening 31 is an angle to about 40 degrees to the horizontal plane 40, but an outlet opening 33 is in angle to about 130 degrees with respect to the horizontal plane and the inlet opening 31. Claims 3 and 5 recite that the plane of the ball seating opening 33 defines an angle of 20-70 degrees, preferably an angle of about 40 degrees, with the axis of the handle. The recitation is not clearly understood as to how the "ball seating opening 33 defines an angle of 20-70 degrees, preferably an angle of about 40 degrees with the axis of the handle".

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for "the horizontal plane of the cage" (claim 1, line 9), "the plane of the ball seating opening" (claim 3), "the edge of the seating" (claim 3), or "the plane of the ball seating opening" (claim 5).

Moreover, the claimed language of the phrases "a so-called cage" (claim 1), "a first cage orientation of the tool" (claim 1), and "the ball seating opening" (claim 3) are vague and indefinite. It is unclear the definition of "a first cage orientation of the tool" as to whether applicant is intended to recite "a second cage orientation of the tool" later on.

Further, the exact meaning of the recited phrase "the first and second sections forms a threshold over which the ball must run" (claim 1) is not clearly understood how the ball must run the threshold.

The recited phrases "the seating opening" in claims 3 and 5 are unclear as to whether it refers to "a ball seating" or "an opening edge of the first section".

***Claim Rejections - 35 USC § 102***

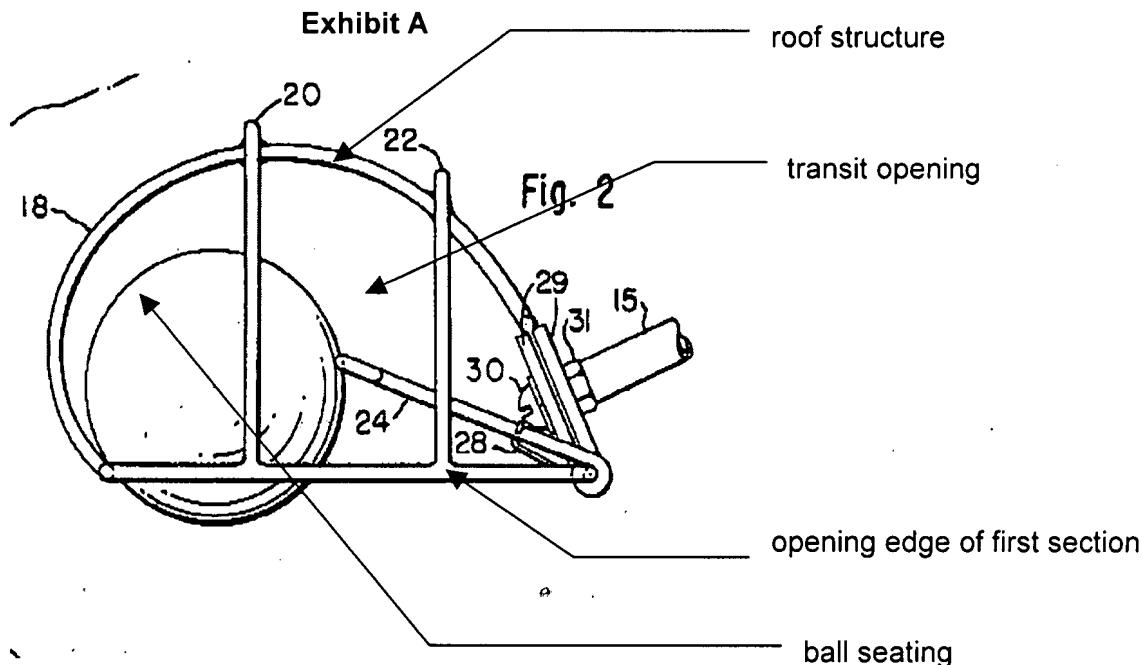
10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1,2, and 4, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Christle (3,046,044).

Christle (3,046,044) discloses a golf ball retrieval device comprising an elongated handle 12, a cage (Fig. 2), having a first section and a second section, the first section having an opening edge (see Exhibit A), a transit opening which connects the first section and the second section and which forms a threshold over which the ball go through, the second section having a downwardly open opening forming a ball seating, and a roof structure.



Re claim 2, Exhibit A shows the threshold in combination with a member 24 capable of preventing the ball from rolling from the ball seating.

Re claim 4, the ball seating in combination with a member 24 is capable of being in a position in which the center of gravity of the ball lies beneath the axis of the handle 12 in a second orientation of the cage, where the cage has been rotated about the axis through an angle of 180 degrees.

#### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 3 and 5, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Christle (3,046,044).

Christle's golf ball retrieval device (3,046,044), as presented above, in figures 2 and 3 show that the plane of the ball seating opening is in an angle of 20-70 degrees with the axis of the handle 12, but does not show the seating opening of elastically resilient to be able to widen. However, it would have been obvious to those skilled in the art to make the cage of Christle's golf ball retrieval device with a hard plastic, instead of a metal wire, to provide flexibility to handle the golf ball.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

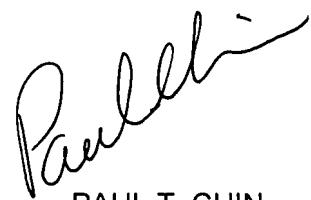
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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PAUL T. CHIN  
Examiner  
Art Unit 3652